

**REGULAR COUNCIL MEETING**

**Monday, June 1, 2020**

**7:00 p.m. – Meeting**

**\*\* COVID- 19 Procedures in Effect\*\***

**Live via Facebook@<http://Facebook.com/lackawannany>**

**[www.lackawannany.gov](http://www.lackawannany.gov)**

**Regular session of the Lackawanna City Council met remotely live on Facebook, Council President Frederic J. Marrano presiding. The meeting was preceded by the Pledge of Allegiance led by Council President Frederic J. Marrano.**

**Meeting called to order.**

**NB: Meeting being recorded.**

**Roll Call: Council: Ingram, Moretti, Surdyke, Marrano**

**Dept. Heads: Law, Comptroller, Recreation, Public Safety, Development, Public Works**

**Hearings from citizens:** Received by email prior to the meeting.

Moved by Marrano seconded by Moretti to receive and file.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Approval of Minutes:** of the regular meeting of May 18, 2020.

Moved by Marrano seconded by Ingram to adopt minutes as written.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Departmental Reports:**

1. **City Comptroller** – A/P Check Listing #42, dated May 14, 2020.

Moved by Marrano seconded by Moretti to receive and file Departmental Report one.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Communications from Division/Department Heads:**

**Approval of Resolution Authorizing a Temporary Ordinance to Support City Wide Zoning Code Amendments.**

2. To: City Council

Dear Council Members:

Attached please find a proposed Resolution authorizing this Department, in coordination with the Department of Public Works, Public Safety, and Fire, to issue Temporary Permits to allow for the expansion of commercial activities of retail and restaurant activities for existent brick and mortar facilities onto patios on public and private properties.

The intent is to assist business whose interior use of their existent space will be restricted by adherence to New York State Guidelines, adopted by New York Governor's Executive Order's to help prevent further spread of the COVID-19 Virus.

The powers granted to the four department heads under this Ordinance will expire on November 1, 2020, and the outdoor facilities will have to be pulled up, unless separately approved by additional process, by September 15<sup>th</sup>, 2020.

Respectfully submitted,

**RICHARD E. STANTON, DIRECTOR OF DEVELOPMENT**

Moved by Marrano seconded by Moretti to receive and file, act on resolution.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

### **RESOLUTION No. 12, 2020**

**WHEREAS**, the Lackawanna City Council is the Governing Body of the City of Lackawanna, New York (the City) with the power pursuant to New York General City Law § 20, and otherwise, to regulate the use of land within the City, and to impose area restrictions on said land usage; and

**WHEREAS**, pursuant to New York Governor's Executive Order 202 through 202.6, and subsequent Executive Orders, the interior space of New York State restaurants, and many retail stores, have been substantially closed for business since approximately March 15, 2020; and

**WHEREAS**, it is now anticipated that the State of New York will allow the reopening of many closed restaurants and retail businesses in the near future, but with restrictions as to the number of people, and the density of allowed service retail and restaurant space, once it is opened; and

**WHEREAS**, the exterior space, at and around, many existent facilities provides the potential for businesses to recover customer bases, and survive the economic downturn, however the time period for traditional site plan review, would substantially delay the reopening; and

**WHEREAS**, this City Council would like to adopt a process for the expedited issuance of permits for outside restaurant and retail space, while protecting the quality of life at surrounding properties; accordingly it is hereby

**RESOLVED**, § 194-33 of the Code of the City of Lackawanna is now hereby amended to provide a new provision to allow for temporary issuance of Permits for outdoor retail and restaurant space as follows:

#### *§ 194-33-a Temporary Permit for Outdoor Commercial Space*

*1. Set for the below is the application and approval process for the issuance of Temporary Permits for the installation and operation of commercial and retail space as the business community re-opens as part of the recovery from COVID-19 Pandemic which resulted in the temporary closures of many establishments. All operations permitted hereunder must strictly comply with the New York State Governor's Executive Orders concerning COVID-19, and all applicable health and safety guidance documents for reopening published at <https://forward.ny.gov/>. The Power granted by the Lackawanna City Council for the approval of Outdoor Commercial Space is temporary, and shall terminate on September 1<sup>st</sup>, 2020, unless otherwise extended by this governing body.*

*2. Contents of Applications. An owner or operator of a restaurant and/or retail establishment abutting in whole or in part upon a public street, who desires to extend the services of such restaurant*

and/or retail establishment into the sidewalk portion of the public street, or lands adjoining the sidewalk on which the restaurant and/or retail establishment abuts, or onto his or his landlord's own property, may file an application therefor with the Director of Development. The application shall be accompanied by a currently dated plot plan drawn to a suitable scale, as determined by Code Enforcement Officer, showing:

- (a) The location and size of the structure housing the restaurant or retail establishment; and
- (b) The locations and dimensions of the entire sidewalk between the curb line and the right-of-way adjacent to the restaurant; and
- (c) The length of the property lot line abutting the public street; and
- (d) The contemplated hours of operation of the outside portion of the restaurant or retail space; and
- (e) The number and location of any table, or other apparatus, and fencing to be placed in the outdoor space, together with the location of any railings, walls or planters to be placed therein, and location of any equipment used to hold merchandise; and
- (f) The mechanism for holding any tables or fences or other apparatus in place which must be removable without any impact to the sidewalk or other municipally owned hardscape feature; and
- (g) The maximum number of people intended to be accommodated by the proposed extension; and
- (h) Whether or not the sidewalk in front of the premises supports or contains a bus stop, utility pole or poles, public rubbish containers, a bus passenger shelter, fire hydrant, trees, public telephones or any permanent obstruction, and if so, their location; and
- (i) Where on the premises there is to be found the water shutoff, gas shutoff and sewer vent; and
- (j) As a requirement for installation and/or placement of any apparatus and use of a sidewalk café as within this section, the design and plans shall include necessary access for persons with handicapping conditions by access routes at ground level or with a ramp or similar access to allow a barrier-free entrance to those persons with handicapping conditions.

(3) *Review and Approval of Applications.* The application and plot plan required above shall be filed with the Code Enforcement Office of the City of Lackawanna, together with the application fee of \$50. The Code Enforcement Officer shall forward a copy of the application to the Commissioner of Public Works, the Director of Public Safety and the Fire Marshall, and the Director of Development, each of whom shall review the application and then in their discretion make the determination to approve the designs and plans submitted, request modifications, or deny. In no case shall the unobstructed portion of the public passageway, after the installation of the sidewalk café, be less than four feet in width, and in sub instances the afore referenced Commissioner, or Director, may require an unobstructed passageway or more than four feet in areas of high pedestrian traffic. The Commissioner of Public Works, Director of Public Safety, or Fire Marshall may demand modification of any plans to meet the public health, safety and welfare concerns. If, and only after the Commissioner of Public Works, Director of Public Safety and Fire Marshall approve the plans as submitted, or modified, the Director of Development may approve the application, disapprove it or approve it with conditions.

(4) *Expiration of Temporary Permits.* Permits issued pursuant to the provisions of the above provisions automatically expire on November 1<sup>st</sup>, 2020. Upon the expiration of the Temporary Permit all apparatus, and installations shall be removed from the public passageway no later than November 15<sup>th</sup>, 2020.

(5) *The Permit Fee. The Permit fee shall be \$45.00.*

**THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY**

**Dated: June 2, 2020  
Lackawanna, New York**

Moved by Marrano seconded by Moretti to adopt resolution as written.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Waive the Rules Request.**

Moved by Marrano seconded by Ingram to waive the rules.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Request Approval for Closure of Olcott Street and Patrol Car to Assist With Social Distancing Requirements.**

To: City Council President

Dear Council President:

First and foremost, I/we wish that you and the Council are safe in these perilous times we are living through. The Baker Homes Tenant Council will like for your honorable body to approve the 2020 COVID-19 Lackawanna Photo Shoot and the subsequent closure of Olcott Street, West of Olin Lane and Olcott Street intersection, to assist in social distancing requirements.

1. The date and time is: June 5, 2020 beginning at 5 p.m. and the location is the Resource Center.

2. Seniors will be in their cars lined up on the alternate parking side of the street.

3. Occupants of one car at a time will be allowed to enter the building, have their photo shoot with their prom partner and respective parents. No more than 9 people (including the photographer) will be in the building.

4. Upon exiting; family and friends will be allowed to take pictures on the east side of the resource center in the alley between the center and the adjacent apartment building. As each family of friend takes pictures, they will return to their vehicle and allow the next individual(s) up to take photos.

5. As external photos are being taken, the next group will enter the building to take their internal pictures.

6. This cycle will continue until all seniors have had their internal and external photos taken.

The goal of the BHTC is to give these seniors a moment to be celebrated for their accomplishment. Normally, there would be a large "Garter Party" attracting hundreds. This approach complies with all local, state and federal COVID-19 guidelines.

I/we thank the entire City Council for their vote on this event and your collective support of the Graduating Class of 2020.

Respectfully,

**LAVERNE WARE, BHTC PRESIDENT**

Moved by Marrano seconded by Ingram to approve request, refer to DPW Commissioner and Director of Public Safety.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Communication from Citizens:**

**Request for the City Council to Temporarily Revoke the Business License of the Store Located at 161 Steelawanna.**

3. To: City Council

Dear Council President:

I regret having to ask this honorable body to temporarily revoke the Business License of the operators of the store situate within 161 Steelawanna Avenue Lackawanna, NY 14218, but my neighbors and I, all taxpayers, have had enough.

I request the closure as referenced above until the following issues of concern can be addressed to the Council by said business:

1. No social distancing,
2. No masks,
3. Drug sales and drug usage in front of business,
4. Drug sales and use of drugs in the driveway and rear of the property,
5. Loitering in front of the building,
6. Loiterers and loud music playing from their cars.
7. The garbage thrown on the ground by their customers,
8. Illegally parked cars on the wrong side of the street,
9. Consuming of alcoholic beverages in front, in the driveway, and in the rear of the building.

I must be clear in articulation that this is not a third party revelation, I live next door, my deck is elevated, I see and smell it all on a daily basis and I should not be harassed on my own property by individuals that should be transient. Nor should I or my neighbors have to clean up the blunt papers, or the inside of cigars amongst other items sold by the store. Nor should we have to pick up garbage, from items not sold in the store that people throw out of their cars because the store refuses to maintain garbage cans in front of the store.

These issues should not even be before the Council. In business, you take the appropriate steps to extend your community good will to avoid situations like this. This is clear and present disrespect to the neighbors, the community, the City and the State. These actions denote that the law does not apply to this establishment and they will do what they want, the way they want and no one is going to do anything about it.

This issue has been raised since the beginning of the present Councilman's tenure at each public meeting he has had. Public Safety has been apprised, yet we have the same situation that is now compounded by this pandemic, and it has only gotten worse.

Place yourselves in our shoes just for a moment, imagine you can't get out of your own driveway because you are blocked in by a customer of the store and you get cursed out because you want to get out of your driveway that you pay taxes on. I could go on, but prayerfully, you all get the picture and agree with us that this should not go on a day longer.

I thank you in advance, on behalf of my neighbors and myself for your support in correcting these issues in a timely manner.

Respectfully,

**GEORGE W. HALSEY, III**

**Request for Assistance with the Store Located at 161 Steelawanna.**

4. To: Councilman Ingram

Dear Councilman Ingram,

I'm writing to obtain assistance with the store located at 161 Steelawanna Avenue.

I have sent several communications over the last few years and the problems have gotten worse.

My Concerns were also outlined in a communication to the City when the store's application for a Deli Permit was voted on by the City Council in August 2018. My concerns were ignored, and the store was granted a license to remain open until 11 pm on weeknights and 12 midnight on weekends.

For over 18 months after being granted the license, the store continued to close after 2 a.m.

After complaints, the store began closing at the proper time a few weeks ago; however, all of the problems now stop at 11 p.m. instead of 2 a.m.

We continue to be subjected to public urination, empty food containers and trash from cars entering or exiting the store, blocked driveways, property damage, parked cars with music that shake our homes, loitering in front of our homes, and in our driveways, broken liquor and beer bottles, open drug dealing. Much of the drug dealing moved from Washington St. to inside of the store during the winter, but as soon as the weather improved, the drug transactions and problems increased.

In addition to the other problems, we are now dealing with fireworks, cherry bombs, motorcycles and ATV's speeding back and forth between the Baker Homes and Gates Apts., while often stopping at the store.

The store has had 3 owners in 60 years and there were never any disturbances or quality of life problems until the current owner took possession of the store around 5 years ago. The previous owners made an honest living at the store while running a respectable clean decent business.

Each year, the problems get worse. There has been violence that has taken place at or near the store and I am concerned that gunfire will be next.

We pay taxes, invest in our homes and maintain our property. We should not have to live under these conditions.

I am a strong believer in small business ownership; however the business should not be a nuisance to the neighborhood and reduce the quality of life for the residents.

This is how the demise of safe and decent neighborhoods starts. If nothing is done to stop these problems, they will only escalate.

Thank you for your anticipated assistance.

**KIMBERLY SMITH**

**Concerns Regarding Lackawanna Express Market, 161 Steelawanna.**

5. To: Councilman Ingram

Councilman Ingram,

Can this business do more to stop the loitering that is happening both inside and outside of their store?

There are signs posted, but it seems that the store clerks are not advising customers to NOT linger outside. In most cases there are three to six people loitering, while drinking from solo and Tim Horton's cups.

I have also noticed most days vehicles are parking on Washington Ave. for prolonged periods while this loitering occurs. This begins on numerous days even prior to the business opening. Examples are White BMW plate #JNH-1796 & Gray Chevy plate #JNH-6737 which seems to park there almost daily. There seems to be increased traffic stopping briefly to interact with individuals driving the parked vehicles. I have noticed at times the police stopping and sounding their horns to get loiters to disperse. Unfortunately they return within 30 to 60 minutes.

On another note, there has been an increase of mini bikes, dirt bikes, & ATV's racing up and down Steelawanna Ave. On several occasions I have called LAPD. There has already been an accident with

damage to vehicle and light pole. Any help could prevent a more serious accident from happening. The warm weather is approaching and if these issues can be addressed it will help in keeping our neighborhood safe for all.

Best Regards,

**EDWARD SMITH**

Moved by Marrano seconded by Ingram to receive and file citizen communications 3, 4 & 5, **TABLE** request to temporarily revoke business license pending additional information.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Request for Approval to Close Milnor Street Saturday, July 4<sup>th</sup>.**

6. To: City Clerk

Good Morning,

I am writing to request closing down Milnor Street in Lackawanna, NY on Saturday, July 4<sup>th</sup> from 4 p.m. – 11 p.m. We are having a 4<sup>th</sup> of July/Birthday party as we do every year. The neighbors all come out on their front lawns to socialize and the kids like to run around between houses to visit. We also do a firework show in the evening. However, with the gas station on one corner and bar on the other corner cars speed down our street and sometimes will drive right over the fireworks or next to them knocking them over. We are trying to have a gathering that will be enjoyable for all as well as safe. I hope that you will consider my request. It will be much appreciated.

Thank you,

**LYNN BADER**

Moved by Marrano seconded by Ingram to deny request as submitted.

No: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Request Approval to Utilize the Lot at 609 Ridge Road for mobile COVID-19 Testing.**

7. To: Mayor Annette Iafallo

Good Morning Mayor Annette Iafallo,

I hope you and your family are safe and doing well during this pandemic. We look forward to having you back at ACCESS of WNY to share our ongoing efforts here in Lackawanna when the conditions are safer. We are working with other organizations like the Community Health Center of Buffalo, Voice Buffalo, Senator Kennedy's office, and the New York Immigration Coalition to ensure residents have access to COVID-19 testing.

We are asking to utilize the lot across the street from our office, ACCESS of WNY, located at 609 Ridge Road on Friday, June 26, 2020 for a mobile COVID-19 testing site in Lackawanna morning and afternoon. Vehicles can enter through Ridge Road and exit onto Nason Parkway. Two vehicles will be able to be tested at the same time in 10-minute intervals. The tent will be in the back toward Nason Parkway allowing cars to be parked in the lot while waiting. We are aware that residents are able to get tested at urgent care centers and hospitals. A mobile testing site could assist in providing an additional resource to our community members.

Please let me know if you need any additional information. Also, I can be reached directly on my cell at 626-409-4450. We appreciate your and the city council assistance and look forward to hearing from you soon. Thank you for your consideration.

All the best,

**TALIB Z. ABDULLAH, EXECUTIVE DIRECTOR**

**609 Ridge Road**

**Lackawanna, NY 14218**

(716) 332-5901 ext.33

[Abdullah@accesswny.org](mailto:Abdullah@accesswny.org)

Accesswny.org

Moved by Marrano seconded by Moretti to approve request, refer to Director of Public Safety.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

**Tabled Item from Regular Council Meeting of May 18, 2020.**

Moved by Marrano seconded by Ingram to remove from the TABLE item #6(A) from the regular meeting of May 18, 2020, Current Expense Budget of the City of Lackawanna for the Fiscal Year 2020-2021, and act on same.

Yeas: Ingram, Moretti, Marrano

No: Surdyke

Carried 3-1

**AN ORDINANCE ADOPTING THE CURRENT EXPENSE BUDGET OF THE CITY OF LACKAWANNA FOR THE FISCAL YEAR 2020-2021**

BE IT ENACTED by the City Council of the City of Lackawanna, New York as follows:

SECTION 1 The City Charter of the City of Lackawanna, New York requires that the City Council, at a meeting thereof, held not later than the 10<sup>th</sup> day of June, adopt a Current Expense Budget for the fiscal year, August 1, 2020 through July 31, 2021, showing all City expenditures and revenues and including the real property tax rate.

SECTION 2 That the sum of \$12,755,884.00, being the entire amount determined to be necessary to be raised by taxation to defray the expense of the City for the 2020-2021 fiscal year, in accordance with the detailed statement of revenues and expenses as estimated and adopted by the City Council, be and the same is hereby levied upon all real and personal property subject to taxation upon the assessment roll of the City of Lackawanna for the 2020-2021 fiscal year.

SECTION 3 That the City Clerk be and hereby is directed to extend and apportion the said sum levied and to be raised by taxation as aforesaid in the last assessment roll of the City of Lackawanna delivered to him and to deliver a certified duplicate of the same, with a warrant annexed, under the seal of the City of Lackawanna, to the City Treasurer, commanding her to receive, levy and collect the several sums in said roll specified as assessed against the persons or property therein mentioned or described with such percentage in the manner provided by law for the collections and levying of City taxes by the City Treasurer.

SECTION 4 That the following schedule be and the same is hereby adopted as the Current Expense Budget of the City of Lackawanna for the fiscal year August 1, 2020 through July 31, 2021, along with the revenues and taxation estimated and levied herein, and that the same be and hereby is

appropriated in the sums set forth in the third column of said schedule to the use of the several boards, departments and offices for the purposes enumerated therein, to wit:

Unified tax Rate: \$17.23 of assessed valuation

SECTION 5 That the City Clerk be and hereby directed to forward a copy of this Ordinance to the City treasurer, Director of Administration and Finance, City Comptroller and the City Attorney's Office.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.**

**Dated: June 2, 2020  
Lackawanna, New York**

Moved by Marrano seconded by Moretti to adopt ordinance as written, City Clerk to forward ordinance as directed.

Yeas: Ingram, Moretti, Marrano

No: Surdyke

Carried 3-1

**Adjournment:**

Moved by Marrano seconded by Ingram to adjourn meeting.

Yeas: Ingram, Moretti, Surdyke, Marrano

Carried 4-0

\_\_\_\_\_  
Frederic J. Marrano-Council President

\_\_\_\_\_  
Jeffrey P. DePasquale - City Clerk

Due to the COVID-19 pandemic City Hall is closed and meetings are closed to the public. Any questions from the public related to meeting agenda must be received by email ([cityclerk@lackny.com](mailto:cityclerk@lackny.com)) or US mail by 12 p.m. the day of the meeting to be considered.

